

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

CHRISTOPHER DALE BUTLER

PETITIONER

V.

CIVIL ACTION NO. 3:21-CV-533-DPJ-BWR

JOSH DAVIS, Warden, and the  
STATE OF MISSISSIPPI

RESPONDENTS

ORDER

Christopher Dale Butler filed this petition for writ of habeas corpus [1] challenging his 2017 state-court conviction and sentence of 30 years' imprisonment for possession of more than one kilogram but fewer than five kilograms of marijuana under Mississippi Code sections 41-29-139(c)(2)(B)(4) (possession offense), 99-19-81 (habitual-criminal sentencing), and 41-29-147 (subsequent-offender sentencing). R&R [26] at 17–18; *see generally Butler v. State*, 292 So. 3d 251 (Miss. Ct. App. 2019), *cert. denied*, 290 So. 3d 753 (Miss. 2020). Respondents responded in opposition [10], and Butler replied [13]. United States Magistrate Judge Bradley W. Rath recommends dismissing the petition with prejudice. R&R [26] at 1. His Report and Recommendation issued on December 4, 2023; Butler had fourteen days to object. Fed. R. Civ. P. 72(b)(2); *see* R&R [26] at 26 (advising Petitioner of deadline). Butler did not object within that period.

“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b) advisory committee’s note (1983), *quoted in Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1420 (5th Cir. 1996) (en banc), *superseded on other grounds by* 28 U.S.C. § 636(b)(1) *as noted in Alexander v. Verizon Wireless Servs., L.L.C.*, 875 F.3d 243, 248 (5th Cir. 2017).

Having reviewed the record and found no clear error, the Court accepts the well-reasoned recommendation of Judge Rath.

IT IS, THEREFORE, ORDERED that the Report and Recommendation of United States Magistrate Judge Bradley W. Rath [26] is adopted as the finding and holding of this Court. Respondents' request to dismiss, Ans. [10] at 40, is granted; the petition is dismissed with prejudice.

A separate judgment will be entered as required by Rule 58 of the Federal Rules of Civil Procedure.

**SO ORDERED AND ADJUDGED** this the 22nd day of December, 2023.

s/ Daniel P. Jordan III  
CHIEF UNITED STATES DISTRICT JUDGE